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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/727,915

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EXAMINER

FRITZ, BRADFORD F

ART UNIT

PAPER NUMBER

2141

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/727,915	Applicant(s) SELIGMANN ET AL.	
	Examiner BRADFORD F. FRITZ	Art Unit 2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/07/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 1/04/2008 have been fully considered but they are not persuasive.
2. In the remarks, applicant argued in substance that:

(A) Vassilovski teaches nothing about considering the semantic content of said message.

As to point (A), in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., considering the semantic content) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Nevertheless, the Examiner notes that semantic content can be defined as of or relating to meaning. Vassilovski teaches a system in which messages are sent based on their address destination, SIP call setup parameters, or encryption, meeting the limitation of sending a message based on semantic content of said message (column 2, line 60 – column 3, line 8 and column 2, lines 18-26).

Additionally, the Examiner notes that the only mention of semantic content in the specification is that “[a]t task 560, one or more properties of message M (e.g., priority,

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semantic content, the sending user, the receiving user, etc.) are determined in **well-known fashion**" (paragraph 0060).

(B) Prior art does not teach selecting a physical medium for sending a message based on the message's semantic content.

As to point (B), Vassilovski teaches a system that examines the "semantic content" of a message and if it is determined that the message is encrypted then the system sends the message over the PSTN network and thus, transmission of encrypted messages over the public Internet is avoided (column 5, lines 13-35). Also, Vassilovski teaches a system that examines the "semantic content" of a message and if it is determined that the message is unencrypted then the system sends the message over the public Internet (column 5, lines 13-35).

(C) Prior art does not teach selecting different physical media (e.g. copper, radio, etc.).

As to point (C), in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., selecting *different* physical media) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Examiner notes the claims, as written, the claims only require selecting one of a plurality of media and the claims are not limited to selecting one of a plurality of *different* media. For instance, selecting one of two types of the same or similar media would read on selecting one of a plurality of media. The Examiner notes that given the breadth of the independent claims, selecting one wire link in a network to route/send a message from a plurality of routes/links could even meet the claimed limitation of selecting one of a plurality of media.

Nevertheless, Vassilovski teaches selecting a message to be sent over a public switched telephone network, or over the Internet, or even over the air (radio), which meets the claimed limitation of selecting one of a plurality of media (column 2, lines 41-51 and column 3, line 45 – column 4, line 3).

(D) Prior art does not teach selecting a physical medium for sending a message based on the user to whom said message is directed.

As to point (D), Vassilovski teaches selecting a route to send a message based on the destination address of the recipient (*directed user*) (column 2, lines 41-51), which meets the required limitation of the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 29-52 rejected under 35 U.S.C. 102(e) as being anticipated by

Vassilovski (6,813,264).

5. Regarding claim 29, Vassilovski disclosed selecting one of a plurality of physical media for sending a message from a first telecommunications terminal to a second telecommunications terminal (column 2, lines 41-51 and column 3, line 45 – column 4, line 3), based on the semantic content of said message (column 2, lines 41-51).

6. Regarding claims 30, 33, 36, and 39, Vassilovski disclosed where each of said physical layer protocols is associated with a respective degree of security (column 2, line 60 – column 3, line 8 and column 2, lines 18-26), and wherein the selection is also based on said respective degrees of security (column 2, line 60 – column 3, line 8 and column 2, lines 18-26).

7. Regarding claims 31, 34, 37, and 40, Vassilovski disclosed where the selection is also based on the user to whom said message is directed (column 2, lines 41-51).

8. Regarding claim 32, Vassilovski disclosed selecting one of a plurality of physical layer protocols for sending a message from a first telecommunications terminal to a second telecommunications terminal (column 2, lines 41-51 and column 3, line 45 – column 4, line 3), based on the semantic content of said message (column 2, lines 41-51).

9. Regarding claim 35, Vassilovski disclosed selecting one of a plurality of medium access controls for sending a message from a first telecommunications terminal to a second telecommunications terminal (column 2, lines 41-51 and column 3, line 45 – column 4, line 3), based on the semantic content of said message (column 2, lines 41-51).

10. Regarding claim 38, Vassilovski disclosed selecting one of a plurality of networks for sending a message from a first telecommunications terminal to a second telecommunications terminal (column 2, lines 41-51 and column 3, line 45 – column 4, line 3), based on the semantic content of said message (column 2, lines 41-51).

11. Regarding claim 41, Vassilovski disclosed selecting one of a plurality of physical media for sending a message based on the user to whom said message is directed (column 2, lines 41-51).

12. Regarding claims 42, 45, 48, and 51, Vassilovski disclosed where each of said physical media is associated with a respective degree of security (column 2, line 60 – column 3, line 8 and column 2, lines 18-26), and wherein the selection is also based on said respective degrees of security (column 2, line 60 – column 3, line 8 and column 2, lines 18-26).

13. Regarding claims 43, 46, 49, and 52, Vassilovski disclosed where the selection is also based on the user who sends said message (column 2, lines 41-51).

14. Regarding claim 44, Vassilovski disclosed selecting one of a plurality of physical layer protocols for sending a message based on the user to whom said message is directed (column 2, lines 41-51).

15. Regarding claim 47, Vassilovski disclosed selecting one of a plurality of medium access controls for sending a message based on the user to whom said message is directed (column 2, lines 41-51 and column 3, line 45 – column 4, line 3).

16. Regarding claim 50, Vassilovski disclosed selecting one of a plurality of networks for sending a message based on the user to whom said message is directed (column 2, lines 41-51 and column 3, line 45 – column 4, line 3).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **BRADFORD F. FRITZ** whose telephone number is (571)272-3860. The examiner can normally be reached on 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. F. F./
Examiner, Art Unit 2141

/Andrew Caldwell/
Supervisory Patent Examiner, Art Unit 2142